

UNITED STATES SENATE
COMMITTEE ON PUBLIC WORKS
CORRESPONDENCE CONTROL

9/4

Date				
Name	Act.	Info.	Circ.	In.
Chief Clerk		✓		✓
Mr. Van				
Mr. Huyett				
Mr. Meyer				
Mr. Billings				
Mr. Grundy				
Mr. Symes				
Mr. McClure				
Mr. Wilson				
Mr. Cummings				
Mr. O'Malley				
Mr. Yago				
Frances				
Kathy				
Becky				
Polly				
LaVerne				
Eleanore				
Diane				
Veronica				
Cecily				
Margie				
Frankie				
Peggy				

MINORITY

Mr. Guard				
Mr. Jorling				
Mr. Brayman				
Adrien				
Ann B.				
Hester				

Signature
Chairman
Chief Clerk
Senator



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

SEP 4 1970

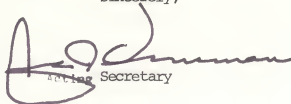
SEP 2 1970

Dear Mr. Chairman:

Enclosed for your information are copies of a letter to Secretary Richardson from the President of the Automobile Manufacturers Association and our response. The letters concern the amendments to the Clean Air Act currently being considered by your committee.

I hope our response will be helpful to the Committee in its deliberations. We would be pleased to provide any additional information you might desire in connection with the bill you are considering.

Sincerely,



Acting Secretary

Honorable Jennings Randolph
Chairman
Public Works Committee
The United States Senate
Washington, D.C. 20510

Enclosure



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

SEP 2 1970

Mr. Thomas C. Mann
President
Automobile Manufacturers Association, Inc.
1619 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Dear Mr. Mann:

This is in response to your letter of August 27, 1970, concerning needed reductions in motor vehicle pollution. I have reviewed the matter discussed in your letter and am pleased to furnish you the following comments.

The intention of this Department to require a reduction in motor vehicle emissions beyond those proposed for application to 1975 models in the Federal Register issuance of July 15, 1970, is a matter of public record. At the Environmental Quality Council meeting on November 20, 1969, which was attended by representatives of the four major domestic manufacturers, Secretary Finch presented this Department's interim and ultimate goals for vehicle emissions. The interim goals were proposed for the 1975 model year; the ultimate goals were proposed for 1980.

The paper entitled "Federal Motor Vehicle Emission Goals for CO, HC, and NO_x Based on Desired Air Quality Levels," prepared and presented by personnel of the National Air Pollution Control Administration, is intended to show, within the limits of existing data, the relationship between motor vehicle emission reductions and improvements in air quality. More specifically, it seeks to demonstrate that further reductions in such emissions, beyond those we have proposed for 1975, will be necessary, and that the order of magnitude of the needed reductions is consistent with the goals we previously announced for 1980.

The methods employed in analyzing the data are widely used in calculating emission reductions needed to insure attainment of given air quality levels. It appears to me that the paper makes responsible and constructive use of such data and methods as a means of determining what the Nation

must do in order to reduce the threat of air pollution in years to come, particularly in view of the alternative, which is to postpone making projections and decisions for several years in order to produce more definitive data from which more precise conclusions could be drawn.

I assume that your reference to required publication of information in the Federal Register concerns the statements made in the National Air Pollution Control Administration's paper with respect to ambient air quality levels needed for health protection. In this connection, it should be noted that air quality criteria documents for carbon monoxide, hydrocarbon, and photochemical oxidants have been issued in accordance with procedures prescribed in the Clean Air Act; their issuance in March 1970 was announced in the Federal Register. The air quality criteria document for nitrogen oxides is in an advanced state of preparation and is expected to be ready for issuance later this year or early next year. The resume section of the published criteria documents reflects a judgment that ambient air quality standards should be set below the lowest effect levels cited therein.

I do not share your criticism of the National Air Pollution Control Administration's use of information from air quality criteria documents already published or in the advanced stage of preparation as a means of projecting needed reductions in motor vehicle pollution, particularly since the document in question carefully states the nature and limitations of its data and assumptions.

I trust that you will find these comments helpful.

Sincerely,

/s/ John G. Veneman

Acting Secretary

AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.

1619 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 667-7733 AREA 202

WILLIAM V. LUNEBURG, CHAIRMAN
THOMAS C. MANN, PRESIDENT
RUSSELL E. MACCLEERY, ADMINISTRATIVE VICE PRESIDENT

August 27, 1970

The Honorable
Elliot L. Richardson
Secretary of Health, Education
and Welfare
Department of Health, Education
and Welfare
330 Independence Avenue, S. W.
Washington, D. C. 20201

HEW-MASSA
EX-SEC
Aug 28 12 03 PM '70

Dear Mr. Secretary:

As you know, proposed amendments to the Senate Clean Air Act are about to be reported out of committee. This bill in its present form proposes drastic reduction in auto emission levels for 1975 as compared with the already stringent HEW goals for 1975. Automobile manufacturers have clearly stated to Senator Muskie that, based on current technology and foreseeable advances, they cannot achieve the levels proposed in the bill by that date.

In Senator Muskie's meeting with presidents and other officials of automobile companies on August 25, 1970, it became apparent that the proposed reduction of 1970 emission levels by 90% on 1975 model vehicles is primarily based on the attached document, a copy of which was supplied by the Senator's staff.

It is our understanding that the information from HEW contained in this document was reported in a paper entitled "Federal Motor Vehicle Emission Goals for CO, HC and NO_x based on Desired Air Quality Levels", which I understand was used in a presentation by D. S. Barth, J. C. Romanovsky and E. A. Schuck of your Durham office at a June 16, 1970 annual meeting in St. Louis of the Air Pollution Control Association. It was made manifestly clear in the paper that the measurements, math models,

HEW-02

The Honorable
Elliot L. Richardson

-2-

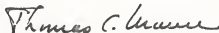
August 27, 1970

data analysis and conclusions are of a developmental or a preliminary nature and not intended to be construed as final or adequate for establishing legal standards.

It is also our understanding that the information supplied by HEW staff is currently being evaluated by NAPCA and should not be considered definitive or official until after review and the required publications in the Federal Register.

We are concerned that major legislative proposals concerning emissions standards embodying serious social and economic consequences are based on technical information supplied by HEW staff which has not received the rigorous technical scrutiny customary in HEW. We respectfully request that you personally review the material supplied by your department to Senate staff and, if you share our views concerning the nature of the data, that you promptly inform Senator Muskie.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas C. Mann". The signature is fluid and cursive, with the first letter of "Thomas" being a large, stylized capital "T".

Thomas C. Mann

June 11, 1970

From: Staff

Subject: Automobile Emissions Control and Achievement of the Ambient Air Standard necessary to protect health

Communications were held with the National Air Pollution Control Administration for the purpose of determining how long it would take to achieve a national ambient air standard related to health, with particular emphasis on the relationship of automobile emissions to the achievement of such standard. Automobiles contribute three particular pollutants in great quantities (a) carbon monoxide, (b) photochemical oxidants (hydrocarbons), and (c) oxides of nitrogen.

A. The ambient standard necessary to protect the public health from carbon monoxide is 8-10 ppm. This compares to existing ambient air in Chicago for instance of 44 ppm. The 1970 Federal emission standard for automobiles for carbon monoxide is 23 gm/mile. To achieve the public health ambient standard would require emission controls placed on automobiles permitting emissions of only 5 grams per mile; a figure that represents the 1980 emission requirement as proposed by the Administration. In order to achieve sufficient replacement of automobiles with autos having the emission controls meeting 1980 standards will take an estimated ten years. Therefore on assumptions of present programs it will be 1990 before carbon monoxide levels will be brought down to the public health ambient standard. This is premised, it must be emphasized, on reliance exclusively on automobile emission controls and reliance upon proposed controls and their rate of application.

level of

B. The ambient air health standard for photochemical oxidants (hydrocarbons) is 0.06 ppm. To achieve such ambient standard would require a reduction of hydrocarbon emissions from automobiles from the 1970 standard of 2.2 gm/mile to an emission level of 0.2 gm/mile. This last figure is the approximate equivalent of the proposed 1980 emission standard. With the replacement factor and again relying exclusively on emission control it would be 1990 before the ambient health standard could be achieved.

C. The ambient health standard for NO_2 is anticipated to be about 0.10 ppm. This compares with an ambient condition found in most metropolitan of 50.0 to 60.0 ppm. To achieve the health standard would require a reduction from the proposed 1973 emission standard of 3.0 grams per mile to an emissions requirement for automobiles of 0.45 grams per mile, or approximately the proposed 1980 standard. The replacement factor would again, if reliance is placed only upon emission control of this character, result in ambient health standards not being met until 1990.

AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.

1619 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 667-7733 AREA 202

WILLIAM V. LUNEBURG, CHAIRMAN,
THOMAS C. MANN, PRESIDENT
RUSSELL E. MACCLEERY, ADMINISTRATIVE VICE PRESIDENT

September 9, 1970

Subject: Amendments to the Clean Air Act

Attached for your information is a memorandum concerned with the provisions in the subject bill which the Automobile Manufacturers Association considers most important. It deals with the judicial review procedures, which, in our opinion, do not cure the deficiencies contained in 202 (b).

Also enclosed is language which offers an alternative procedure.

MEMORANDUM

SUBJECT: Judicial Review of Standards Established Under
Section 202 (b) of the Proposed National Air
Quality Standards Act of 1970

Section 202 (b) of the Committee Print No. 2
of the above designated legislation directs the Secretary
of Health, Education and Welfare to establish emissions
standards for 1975 new motor vehicles which achieve at
the minimum a fixed 90 percent reduction from specified
1970 levels. These provisions represent an exception to
the general authority set forth in Section 202 (a) of the
proposed legislation authorizing the Secretary to promul-
gate standards for emissions "which in his judgment cause
or contribute to, or are likely to cause or contribute to,
air pollution."

It has been suggested that explicit provisions
by Congress for judicial review of such standards for 1975
vehicles will provide an appropriate and sufficient oppor-
tunity for the vehicle manufacturers to seek relief in
the event that the designated standards for 1975 prove to
be beyond the available technology. This memorandum sets
forth some of the reasons why such judicial review would
not cure the deficiencies which inhere in the current pro-
visions of Section 202 (b) and outlines alternative legis-
lative approaches which are more logical and practical.

Because the Secretary has been denied any oppor-
tunity for the exercise of discretion as to the levels or
effective date of such levels under the proposed subsection,
the court will have no agency record or findings

in light of which to evaluate whether the 90 percent reductions from 1970 levels are in fact necessary to attain the desired ambient air quality standards or are achievable through application of the latest available control technology. Consequently, the court will be required to conduct an extensive fact-finding hearing exploring all such issues de novo. The result will certainly be an extended and confused hearing which, together with the normal appeal processes, may mean that standards for 1975 model vehicles will not be determined at least two years in advance of the production of such vehicles as Congress desires.

In addition, unless Congress provides specific criteria for the guidance of the court charged with reviewing such proposed emission standards, the court will be unable to provide any meaningful review of the Secretary's action pursuant to direction by Congress. The establishment of appropriate emission levels from new motor vehicles is a complex technological and scientific matter which should properly be heard in the first instance by administrative agencies possessed of the required expertise. This is particularly obvious when it is recognized that emission control levels (even those described in proposed Section 202(b)) are meaningful only when accompanied by detailed test procedures specifying how emissions from the vehicles are to be measured. The formulation of such test

procedures is peculiarly a matter which should be left to the expertise and discretion of the Secretary of Health, Education and Welfare and cannot be critically reviewed by the courts in the absence of Congressionally prescribed criteria.

There are more practical and acceptable legislative means for providing increased flexibility in Section 202(b) at the same time as Congress makes clear its intent that the Secretary of Health, Education and Welfare promulgate the most stringent possible emission control standards for 1975 models. These alternative legislative avenues are preferable to sole reliance on judicial review and deserve the most careful consideration by Congress.

The first approach would provide in subsection (b) that the Secretary would have authority to promulgate more stringent standards for 1975 model vehicles if he concludes on or before January 1, 1972, that such levels are necessary and that they are achievable through application of the latest available technology. This legislative approach is completely consistent with Federal legislation regulating other companies and industries in that it assigns the responsibility for developing and promulgating standards to an administrative agency. This is, indeed, the basic approach contained in Title I of the proposed National Air Quality Standards Act of 1970. Moreover, such a legislative approach would permit the Secretary

of Health, Education and Welfare to continue the rule-making procedures now underway looking toward the promulgation in final form of emission standards for new model vehicles up to and including 1975 models. Once these procedures are completed, a factual foundation will exist upon which it can be concluded whether the levels originally proposed by the Secretary or more stringent standards are necessary for 1975 model vehicles.

An alternative approach would be to require the Secretary shortly after the enactment of the proposed legislation to propose emission standards for 1975 model vehicles which are designed to accomplish the Congressionally mandated 90 percent reduction from 1970 levels. The legislation could provide that the Secretary shall promulgate such standards in final form after an administrative hearing, unless he concludes, based upon the evidence adduced at such hearing, that the proposed standard is (1) not necessary to assure attainment and maintenance of national ambient air quality standards, or (2) involves a greater degree of emission control than is achievable through application of the latest available technology. Consistent with the findings made in light of the evidence adduced at such hearing, the Secretary could be required to promulgate a final standard for 1975 models no later than January 1, 1972.

Both of these legislative approaches provide a needed degree of flexibility in the setting of emissions standards for 1975 model vehicles. To that extent both provisions are preferable to sole reliance on the judicial review safeguard. The second of the two approaches, although more desirable than the present provisions of Subsection 202(b), grants the Secretary very limited discretion to vary the 1975 standards from the levels desired by Congress. He must promulgate standards containing at least these minimum levels unless he makes one of the specified findings. Moreover, he is required to complete such rule-making procedures by January 1, 1972. Thus, Congress would be informed at least by that date of the levels believed necessary by the Secretary for 1975 model vehicles and the underlying factual predicates for the Secretary's determination. Such a record of administrative consideration would provide a basis for review either by the courts, if the vehicle manufacturers believe that the standards are too stringent, or by Congress in the event that members of the public believed that the Secretary had erred in promulgating final standards for 1975 model vehicles.